

From: J. Eric Humphreys
To: Microsoft ATR
Date: 1/26/02 11:38pm
Subject: Microsoft Settlement

Gentlemen and Ladies,

I have read the revised proposed Final Settlement for the antitrust case between the U. S. Government and Microsoft. I agree that Microsoft is guilty of monopolistic practices but I doubt that the Settlement will do anything to punish Microsoft for its past practices or prevent Microsoft from employing similar practices in the future.

I wish to draw your attention to the the criteria listed for membership on the Technical Committee which is supposed to monitor and enforce this agreement. I believe that, as worded, it will be extremely difficult to obtain qualified people to serve on this Committee. Specifically:

The requirement that the members must forego employment by either Microsoft or its competitors for two years after such service (IV.B.2.c) is likely to discourage many qualified people from membership on the Committee. People who are experts in software design and development (IV.b.2) know that employment in this field can change suddenly. A limit of six months after service would be more reasonable.

There appears to be no definition of "competitor" anywhere in the document. This would make it easy for Microsoft to object to any proposed member for the Committee that Microsoft deemed detrimental to its business. Some clear definition of the term, or at least a set of guidelines which can be used to determine whether a given business is or is not a competitor, needs to be established.

The requirement that the members of the Committee be proposed within seven days of entry of the final Judgement (IV.B.3) requires that the plaintiffs and Microsoft already be in discussions with prospective members. It is unrealistic to expect qualified people to receive and accept membership on such a Committee when the pay scale has yet to be established (IV.B.6.b). When a case has dragged on this long why quibble over a few days? One or two months might be a more reasonable period for selection.

I hope that you find these comments useful. As background information: I am a Senior Consultant for Sybase, Inc. I have been a software developer for twenty years, mostly as a contractor to the Department of Defense. Most of my work for the past four years has been under the Windows NT operating system. At home I use Macintosh computers, and have for over sixteen years.

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Sincerely,
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